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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,699	02/01/2002	Scott C. Young	LEG03 P-317	1548

7590 10/29/2003

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EXAMINER

HEWITT, JAMES M

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 10/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/061,699

Applicant(s)

YOUNG ET AL.

Examiner

James M Hewitt

Art Unit

3679

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-20.

Claim(s) withdrawn from consideration: _____

8. ☒ The proposed drawing correction filed on 14 October 2003 is a) ☒ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☐ Other: _____

James M. Hewitt
10/27/03

Continuation of 5. does NOT place the application in condition for allowance because: the arguments presented are not considered persuasive. Applicant asserts that the 103(a) rejection based upon the combination of F21B34 and F26B44 is improper, stating "If the nut of the F21B34 termination is provided with apertures in its ears (as suggested by the Examiner) to allow the F21B34 termination to be mounted to a support, such as a wall, the F21B34 termination would be inoperable (i.e. the nut would no longer turn) as an installer could not rotate the nut to secure the termination to an external fitting." In response, and to first reiterate some of the Examiner's remarks made on page 11 of the final office action, providing apertures in the ears of the F21B34 termination would allow the F21B34 termination to be fixedly secured to a wall as by fasteners. This modification does not make the F21B34 termination inoperable. The nut would be threadedly attached to a fitting or attachment on a wall, and fasteners would secure the fitting to the wall, thus creating a fixed and more secure connection between the nut and fitting and between the nut and the wall. To remove the F21B34 termination, the fasteners (screws) would be removed, and the nut would be unscrewed. The nut can still be unthreaded and replaced or unthreaded and re-installed. The fasteners would just have to be removed first. And to address Applicant's assertion "...the Examiner's conclusion of obviousness is based on impermissible hindsight reasoning in that the rejection is based upon knowledge gleaned only from Applicant's disclosure and does not establish a level of ordinary skill in the art at the time the claimed invention was made." the Examiner disagrees. First, reference should be had to the second paragraph on page 11 of the final office action. In addition, both the F21B34 and F26B44 devices are elbow fittings. Both include an internally threaded nut and a barb portion projecting orthogonal to the axis of the nut. The F26B44 fitting teaches apertured ears attached to the body of the nut in order to allow the nut to be affixed to a support by a fastening means. The F21B34 fitting includes projections or ears which are attached to the body of the nut. Thus, given the teaching of the F26B44 fitting, it would have been obvious at the time the invention was made to provide apertures in the ears of the F21B34. This modification would be plainly obvious to the skilled artisan.